

Development of Internet Gambling Regulations

Conference call with Wells Fargo

Call Date: February 26, 2008, 11:30 a.m. EST.

Wells Fargo: Ken J. Bonneville, Assistant General Counsel; Steve M. Ellis, Merchant Card Head of Wholesale Services; Charlie L. Jones, Operations Manager, Wire Services; Edward M. Kadletz, Head of Debit Card; Ted Teruo Kitada, Senior Company Counsel; Linda A. Leo, Operational Risk Manager; Laura Lee Orcutt, Product Management Manager.

FRB: Joseph Baressi, Financial Services Project Leader, and Joshua Hart, Financial Services Analyst, Division of Reserve Bank Operations and Payment Systems.

Treasury: Charles Klingman, Director, Office of Critical Infrastructure Protection and Compliance Policy.

On February 26, 2008, at 11:30 a.m. EST, staff of the Federal Reserve Board and the Department of the Treasury (the Agencies) participated in a conference call with staff of Wells Fargo to obtain clarifying information from Wells Fargo regarding the comment letter it submitted in response to the Agencies' proposed rule.¹ Specifically, the purpose of the call was for the Agencies to obtain clarifying information regarding the resources associated with a large bank, such as Wells Fargo, conducting risk-based due diligence inquiries into the business lines of its existing commercial customer base pursuant to a rule implementing UIGEA.

Wells Fargo discussed each of the designated payment systems in which the bank participates: ACH, card, check, and wire transfer. With respect to its role as an originating depository financial institution (ODFI) in an ACH debit, Wells Fargo noted that it can to some extent control which commercial customers originate ACH debits through it, but that the number of its commercial customers that originate ACH debits is nonetheless quite large. All of the bank's commercial customers may receive an ACH credit through the bank in its role as a receiving depository financial institution (RDFI), and the bank does not control or limit the number of customers that do so. In its role as the merchant acquiring bank for card transactions, Wells Fargo has relationships with a "six-figure" number of merchants, and these merchants constitute only a portion of its entire commercial customer base. In regard to its role as a depository bank for check transactions, any commercial customer may deposit checks. Finally, Wells Fargo noted that its role as a beneficiary bank in a wire transfer is equivalent to its role as an RDFI in an ACH credit. All of the bank's commercial customers may receive a wire transfer through the bank, and the bank does not control or limit the number of customers that do so.

Wells Fargo stated that it generally maintains records pertaining to the nature of its commercial customers' businesses as part of the bank's customer identification program (CIP), implemented pursuant to section 326 of the USA PATRIOT Act. The bank noted, however, that that Act's CIP requirements were only made applicable prospectively. The bank also stated that since the 1980s it has participated in about 40 bank-acquisition transactions, and that its CIP has not been applied to a substantial portion of its existing commercial customer

¹ The Agencies published a proposed rule to implement UIGEA on October 4, 2007. See 72 FR 56680. In response to the proposed rule, Wells Fargo submitted a comment letter dated December 12, 2007, which is also part of the public record in this matter.

base. Moreover, the bank noted that, because the CIP was designed for anti-money laundering and counter-terrorism purposes, the CIP may not always include information that would permit the bank to reliably assess whether a commercial customer might be engaged in Internet gambling. The bank stated that it has envisioned its due diligence inquiries related to UIGEA as being an addition to its CIP on a going-forward basis.